No. Pension. 26th PIC Meeting/2008/2008

To

All Members,
Pension Implementation Committee,
(CBT, EPF)

Sub:- Draft minutes of the Combined meeting of 26th Pension Implementation Committee and 3rd meeting of the Committee on Comprehensive Review of the Employees’ Pension Scheme, 95 held on 06-11-2008.

Sir,

A copy of the draft minutes of the above meeting as approved by the Chairman, Pension Implementation Committee and Committee on Comprehensive Review is forwarded herewith. It is requested to send your comments, if any, within 10 days from the date of receipt of this letter.

Yours faithfully,

Encl: As above.

(K.C. PANDEY)

ADDL. CENTRAL P. F. COMMISSIONER(PENSION)

Copy to:-

1. PPS to Secretary (Labour), Ministry of Labour, New Delhi.
2. PS to Addl. Secretary (Labour) & Chairman, PIC.
3. PS to Joint Secretary (Social Security), Ministry of Labour, New Delhi.
5. Director, Ministry of Labour, New Delhi.
6. PS to CPFC
Draft Minutes of the combined meeting of the 26th Pension Implementation Committee and 3rd of Committee on Comprehensive Review of Employees' Pension Scheme, 1995

Date: 06.11.2008
Venue: Mini-Committee Room, Ministry of Labour and Employment, Shram Shakti Bhawan, New Delhi
Time: 02.45 pm

The third meeting of the Committee on Comprehensive Review of Employees' Pension Scheme, 1995 was held along with the twenty-sixth meeting of the Pension Implementation Committee on 06.11.2008 in the Mini-Committee Room of the Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi. The meeting was chaired by Shri S. Krishnan, Special Secretary, Ministry of Labour & Employment, Govt of India.

The following members were present in the meeting:
1. Sh. Vikas, Director (Finance), representing Financial Advisor, Ministry of Labour & Employment, Govt of India.
2. Sh. W.R. Varada Rajan, Employees' Representative in CBT (EPF)
3. Sh. B.P. Pant, Employers' Representative in CBT (EPF)
4. Sh. Santosh Saraf, Employers' Representative in CBT (EPF)
5. Sh. A. Viswanathan, Central Provident Fund Commissioner
6. Shri Bhudev Chatterjee, Consultant Actuary, EPFO
7. Shri K.C. Pandey, Addl. CPFC (Pension)

The following members could not attend the meeting:
1. Dr. G. Sanjeeva Reddy, Employees' Representative in CBT (EPF)
2. Shri B.N. Rai, Employees' Representative in CBT (EPF)
3. Shri Sharad Patil, Employers' Representative in CBT (EPF)
4. Shri P.A. Balasubramanian, Valuing Actuary, EPFO
On behalf of Employees' Provident Fund Organisation, the following officers were present in the meeting:

1. Shri K.V. Sarweswaran, RC (Pension)
2. Shri Vineet Gupta, AC (Pension)

At the outset, the Chairman welcomed all the members and apologized for the delay in circulation of the minutes of 25th PIC, which was due to missing of papers in transit. He suggested that the committee could wait for the comments of the members and take them up for confirmation in the next meeting. The Chairman then asked the Central Provident Fund Commissioner to take up the agenda items for discussion.

Item 1: Confirmation of the minutes of 2nd meeting of Committee on Comprehensive Review of EPS'95 held on 01.09.2008.

The Committee considered the draft minutes as placed in the Agenda and confirmed them as final since no comments were received from the members.

Item 2: Action Taken Report.

The Committee noted the Action Taken Report. However, the Committee pointed out that the action at S.No. 2 did not flow from any of the decisions taken by the 24th PIC meeting or the 2nd Comprehensive Review meeting of EPS'95 and hence be treated as withdrawn.

As regards the action at S.No. 3, Shri W.R. Varada Rajan pointed out that his comments were not included among those of CBT members. The Central Provident Fund Commissioner clarified that comments of the hon'ble member in this regard were not available with EPFO. The Chairman suggested that the comments of the hon'ble member could be obtained and incorporated.

Regarding action at S.No. 4, the Chairman directed that a copy of the circular should be made available to all the members of the CBT (EPF).

Regarding S.No. 5, the status of compliance with reference to Supreme Court Judgment was noted.
The Central Provident Fund Commissioner explained the background of the case to the members and read out para 10 & 11 of the Secretary’s order requesting the Committee to make appropriate recommendation to the Central Government.

The members desired to know how the provisions of reduced pension would apply if the superannuation age was raised to 60 years. Shri Bhudev Chatterjee, the Consultant Actuary of EPFO and a member of the Committee, opined that the retirement between ages 58 to 60 could be made flexible by allowing the employer to adopt a retirement age between this age interval. However, the last age for vesting should not exceed 60 years. At the same time, the maximum pension could be allowed to accrue at any age greater or equal to 58 but not more than 60. This would mean that the reduction factor would continue to apply from the reference age of 58 and not from any age beyond the age of 58 years. The Consultant Actuary said that this flexibility in reduced pension was sustainable in view of the increase in reduction factor from 3% to 4%. He further informed that increasing the superannuation age, as aforesaid, from 58 to 60 uniformly would bring about an actuarial saving of about Rs 16,000 crores.

Shri W.R.Varada Rajan said that there was no objection to increasing the retirement age to 60 if the reduction factor is applied only to exit cases prior to 58 years of age and in the exits after 58 to 60 years of age there should be no reduction. However, he suggested that the provision should not be premised on the reduction factor of 4%.

The Chairman agreed with the opinion of the Consultant Actuary and observed that a recommendation could be made that the superannuation age could be raised from 58 to 60 years with full pension vesting at age 58 with the option to continue membership upto 60 years. However, early pension shall continue to be calculated from the reference age of 58 with a reduction factor of 4% in respect of members opting to exit anytime between 50 and 58 years of age.
Item 4: Important Statistics of EPS'95.

The Central Provident Fund Commissioner explained that the item was introduced in view of the suggestions of the members in the previous meetings and would be included periodically in future.

Shri W.R.Varada Rajan suggested that the following information should also be included in future:

(i) Number of establishments covered during the year.
(ii) Number of members added and exited during the year.
(iii) Separate figure of pensioners under the erstwhile Family Pension Scheme, 1971.
(iv) Number of Pensionable and non-pensionable exits during the year, category wise.
(v) Classification of member pensioners by amount of pension received, ie <Rs 100, Rs 100-300, Rs 300-500, Rs 500-1000 and in multiples of 500 thereafter.

The Central Provident Fund Commissioner noted the suggestions.

The meeting ended with a vote of thanks to the Chair.
COMBINED MEETING OF

26TH PENSION IMPLEMENTATION COMMITTEE

AND

3rd OF COMMITTEE ON COMPREHENSIVE REVIEW OF EPS'95

Date : 06.11.2008
Time : 02.45 P.M.
Venue : Mini Committee Room
Ministry of Labour & Employment
Shram Shakti Bhawan
NEW DELHI
<table>
<thead>
<tr>
<th>S.No</th>
<th>Agenda Item</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Confirmation of Minutes of the 2\textsuperscript{nd} meeting of Committee on Comprehensive Review of EPS, 95 held on 01.09.2008.</td>
<td>3</td>
</tr>
<tr>
<td>2.</td>
<td>Action Taken Report</td>
<td>11</td>
</tr>
<tr>
<td>3.</td>
<td>Raising the age of Retirement from 58 to 60 years in M/s. Bihar State Hydroelectric Power Corporation Ltd.</td>
<td>12</td>
</tr>
<tr>
<td>4.</td>
<td>Important Statistics of EPS’ 95.</td>
<td>13</td>
</tr>
<tr>
<td>5.</td>
<td>Any other item with the permission of the Chair.</td>
<td></td>
</tr>
</tbody>
</table>
**Item No. 1:** Confirmation of Minutes of the 2nd meeting of Committee on Comprehensive Review of EPS, 95 held on 01.09.2008.

The draft minutes of the 2nd meeting of the Committee on Comprehensive Review of Employees' Pension Scheme, 1995, as approved by the Chairman, were circulated on 31.10.2008 and are placed below. The Committee is requested to consider the comments, if any, and confirm the minutes accordingly.
Draft Minutes of the 2nd Meeting of the Committee on Comprehensive Review of the Employees’ Pension Scheme, 1995

Date: 01.09.2008
Venue: Mini-Committee Room, Ministry of Labour and Employment, Shram Shakti Bhawan, New Delhi
Time: 11.00 AM

The second meeting of the sub-committee on Comprehensive Review of Employees’ Pension Scheme, 1995 was held on 01.09.2008 in the Mini-Committee Room of the Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi. The meeting was chaired by Shri S.K. Krishnan, Additional Secretary, Ministry of Labour & Employment, Govt of India. The following members were present in the meeting:

1. Sh. S.K. Srivastava, Jt. Secretary, Ministry of Labour & Employment, Govt of India.
2. Sh. Vikas, Director (Finance), representing Financial Advisor, Ministry of Labour & Employment, Govt of India.
3. Sh. B.N. Rai, Employees’ Representative in CBT (EPF)
4. Sh. Sharad Patil, Employers’ Representative in CBT (EPF)
5. Sh. A. Viswanathan, Central Provident Fund Commissioner
6. Shri Bhudev Chatterjee, Consultant Actuary, EPFO
7. Shri P.A. Balasubramanian, Valuing Actuary, EPFO

Upon the directions of the Chairman, the members of the Pension Implementation Committee of CBT (EPF) were also invited to the meeting and the following were present:

1. Dr. G. Sanjeeva Reddy, Employees’ Representative in CBT (EPF)
2. Shri W.R. Varada Rajan, Employees’ Representative in CBT (EPF)
Shri Santosh Saraf, Employers' Representative in CBT (EPF)

Shri B.P. Pant, Employers' Representative in CBT (EPF), did not attend the meeting.

On behalf of the Ministry of Labour & Employment and the EPFO, the following officers were present in the meeting:

1. Shri S.K. Verma, Director (SS), Ministry of Labour & Employment
2. Shri K.C. Pandey, Addl. CPFC (Pension)
3. Shri K.V. Sarveswaran, RPFC (Pension)
4. Shri Raman Dhanasekar, APFC (Pension)
5. Shri Vineet Gupta, APFC (Pension)

At the outset, the Chairman welcomed all the members and asked the Central Provident Fund Commissioner to make a presentation to the invited members explaining the background for comprehensive review of EPS'95. After the introductory presentation, the minutes of the previous meeting were approved and all the remaining items of the Agenda were simultaneously taken up for discussion.

Recalling the deliberations of the previous meeting, the Central Provident Fund Commissioner apprised the members that the Actuaries were given the task of quantifying the savings that would result if the various suggestions before the Committee were implemented. He invited the attention of the members to pages 20, 21 and 23 of the Agenda Book where the quantified implications worked out by the Consultant Actuary were shown.
Shri B.N. Rai desired to know the impact of revised Tables B & D on the projected deficit. The Chairman stated that the above action can result into reduction of deficit by about Rs. 12,000 crores.

Dr. Sanjeeva Reddy requested the Consultant Actuary to throw some more light on the suggestions to wipe out the deficit. Shri Bhudev Chatterjee replied that withdrawal of commutation and Return of Capital options would wipe out a major chunk of the deficit. However, in order to give some annual increase in the pension, increase in contributions would be required.

Dr. Sanjeeva Reddy further stated that while legislating Employees’ Pension Scheme, 1995, it was given to understand by the government that the Scheme had a built-in provision of granting 4% annual increase in the pension amount.

The Chairman observed that several mitigating factors could not be foreseen while framing the Scheme, such as the sharp fall in the interest rates, the high rate of exit leading to higher outflow of funds in the form of withdrawal benefit, the increase in the maximum pensionable salary, etc. He also suggested that the Government may not be asked to increase its contribution.

Dr. Sanjeeva Reddy desired to know the amount that would accrue if the entire contribution of the employer were diverted to the Pension Fund. The Central Provident Fund Commissioner replied that the estimated accrual under several combinations was available in the Actuary’s worksheet at page 23.

Shri B.N. Rai observed that the worked out suggestions were composite in nature and no significant improvement is possible by any
Shri W.R.Varda Rajan observed that during the framing of the Scheme, the Trade Unions were told that instead of making the pension index-linked, an in-built provision for granting 4% annual rise in the pension was provided in the Scheme. It was to examine and grant this increase that the provision of annual valuation of pension scheme was provided. He stated that the Actuary's suggestion to increase the total contribution to Pension Fund to 14% was an attempt to make EPS'95 a Defined Contribution Scheme under the garb of a Defined Benefit Scheme. He regretted that not even the minimum pension payable to a Group D employee of the Central Government was promised to a new entrant under EPS'95. He further desired to know if there was any guarantee that by increasing the total contribution to 14%, the promised benefits could be sustained in the future?

The Consultant Actuary replied that no such guarantee could be provided in any Scheme across the world. However, if the assumed factors did not deteriorate on the whole, the promised benefits would continue as the suggested measures would wipe out the entire deficit for ever. He further stated that in keeping with the best practices across the world, the benefits and contributions under the Scheme should be reviewed every five years. He also observed that even the Government of India was expecting a return of 11% for its new Pension Scheme, whereas EPS'95 was giving benefits in spite of getting a return of only 8%.

Shri Sharad Patil suggested that as a foremost measure, the Employees' Deposit Linked Insurance Scheme 1976 should be merged with the Employees' Pension Scheme, 1995. He also advocated the
suggestion of removal of Commutation and Return of Capital options as it often becomes a problem for the elderly to handle the lump-sums in the form of provident fund, commutation and return of capital. This erodes the basic tenet of a pension scheme which is meant to provide a regular income for a long time. Hence, the emphasis should be on making the pension amount more meaningful by cutting down on the dissipation in the form of commutation or Return of Capital. He also supported the option of enhancing the vesting age to 60 years, saying that superannuation should be directly linked to longevity which is continuously increasing. He observed that even the Supreme Court of India had upheld the demand of increasing the superannuation age in several cases due to the increasing longevity in the country.

Dr. Sanjeeva Reddy opined that increasing the superannuation age to 60 years would require amendment in Standing Orders of the Government as the employers would not be able to do it on their own.

Shri W.R.Varada Rajan stated that the retirement ages for males and females were different in several industries. However, the Trade Unions would support it if the Government comes out with a uniform retirement age of 60 years.

Shri Santosh Saraf suggested that early withdrawals should be discouraged as those withdrawing early benefit at the cost of long paying members. Shri W.R.Varada Rajan said that those taking early withdrawal benefit can not be said to be getting anything more than they contribute. However, the Central Provident Fund Commissioner stated that frequent early withdrawals do put a strain on the Fund as those exiting early do not contribute enough for the cover of death and disablement risk they enjoy during the period of contribution.
Dr. Sanjeeva Reddy desired to know if the contract employees could be kept out of the Employees' Pension Scheme, 1995. The Joint Secretary (SS), Ministry of Labour, and the Central Provident Fund Commissioner replied that it would not be a feasible idea legislatively as well as socially. Further, it would take away a big chunk from the EPS'95 membership. However, the Valuing Actuary supported the suggestion.

Shri W.R. Varada Rajan desired to know as to why the suggestions received from the members of CBT (EPF), were not listed by name? The Central Provident Fund Commissioner replied that the suggestions had been clubbed according to the paragraphs of the Scheme they pertained to. However, names of the members would also be shown from next time. Shri Varada Rajan suggested that the comments could be categorized under the following three heads: those received from the members of the CBT and the Trade Unions; those received from EPFO, including the Actuaries; and those received from all other sources. He further desired that the suggestions of the Central Trade Unions and of Employers' Associations, as shown on page 17, should be provided in detail.

Shri Sharad Patil desired to know the impact of bringing the coverage criterion under the EPF & MP Act down to 10 from 20 employees. The Valuing Actuary replied that since there is a per capita existing deficit in the present situation, adding more members under the prevailing factors would further increase the deficit.

In view of the above discussion, Dr. Sanjeeva Reddy observed that in spite of the suggested measures, it may not be possible to sustain EPS'95 in view of the rising inflation and the growing expectations of the pensioners. Hence, the intervention of Hon'ble
Minister of Labour & Employment was required. He further stated that the employees were ready to increase their contribution if an enhanced pension could be guaranteed. Shri W.R. Varadarajan concurred with the suggestion.

Summing up the discussions, the Chairman observed that after few years, even the enhanced rate of contributions would get offset by other economic factors. In other words, the demand of a constantly increasing pension cannot be met with static contribution rates. Any solution would require a mid-course correction for making EPS'95 sustainable in the long run.

The meeting ended with a vote of thanks to the Chair.
**Item No.2:** Action taken report on decisions taken in earlier meetings.

<table>
<thead>
<tr>
<th>S.No</th>
<th>Number Date of meeting</th>
<th>Decision of PIC, CCR of EPS'95</th>
<th>Action taken/Status.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>23rd meeting of PIC held on 4-5-2007 (Item No.4)</td>
<td>Amendment in EPS-1995 to stop the pension on the request of the pensioner.</td>
<td>Ministry of Labour allowed to stop pension vide letter No.S-65011/1/08/SS.II dated 13-10-2008 on the condition that such a renunciation shall be irrevocable.</td>
</tr>
<tr>
<td>2.</td>
<td>24th Meeting of PIC on 2-1-2008 (Item No.3) &amp; 2nd meeting of Comprehensive review of EPS,1995 held on 01-09-2008</td>
<td>Status Report on the comprehensive review of the EPS,1995</td>
<td>A notification dated 26.09.2008 has been issued by the Central Government withdrawing the Commutation and Return of Capital options so as to make the Employees’ Pension Scheme, 1995 more viable and sustainable. A copy is placed at Annexure-I.</td>
</tr>
<tr>
<td>3.</td>
<td>2nd meeting of Comprehensive Review of EPS’ 95 held on 21-8-2008.</td>
<td>The suggestions received from various quarters on Employees’ Pension Scheme, 1995 should be shown separately and in detail.</td>
<td>The detailed suggestions of Employers’ Associations are placed at Annexure-II. The detailed suggestions of Central Trade Unions are placed at Annexure-III. Suggestions received from CBT Members and various others quarters have been classified and placed at Annexure-IV.</td>
</tr>
<tr>
<td>4.</td>
<td>25th meeting of PIC held on 21-8-2008</td>
<td>Shri W.R.Varada Rajan suggested to reveal pension calculation methodology to pensioner.</td>
<td>Directions have been issued to all regions vide Head Office Circular dated 01.10.2008 to include Work Sheet with PPO so as to show the detailed calculation of pension amount.</td>
</tr>
<tr>
<td>5.</td>
<td>25th meeting of PIC held on 21-8-2008 (Item – 2)</td>
<td>Compliance position on Supreme Court Judgement upholding EPS’ 95.</td>
<td>The updated status on Compliance position on Supreme Court Judgement upholding EPS’ 95 is placed at Annexure-VI (to be placed on table).</td>
</tr>
</tbody>
</table>
Item No. 3: Raising the age of Retirement from 58 to 60 years in M/s. Bihar State Hydroelectric Power Corporation Ltd.

- Order dated 28.08.2008 of the Secretary to the Government of India, Ministry of Labour & Employment in obedience of the Hon’ble High Court of Patna’s order dated 17.7.2007.

The Bihar State Hydro Electric Power Corporation has through a writ petition challenged the scheme formulated under Section 6 of EPF & MP Act, 1952 restricting the benefit of the scheme to the Employees up to 58 years of age and not up to 60 years of the age.

Hearing the CWJC No. 10285 of 2006 in the matter of Bihar Hydro Electric Power Corporation Vs. Union of India & others, the Hon’ble High Court of Judicature at Patna (Single Bench) passed an order dated 17th July, 2007 directing the Government to take an appropriate decision in this regard. The Government accordingly took a decision vide Order No. S-35018/07/08.SS-II, dated 28.08.2008 (copy enclosed at Annexure-V).

2. As per the provisions of EPS, 95, the age of vesting is 58 years. Once a member attains 58 years of age, the contribution being remitted into the Employees’ Pension Fund gets diverted into the Provident Fund thereafter. As the question of raising the maximum age of membership of Employees’ Pension Fund from 58 to 60 is one of the measures suggested by the Valuer of the Employees’ Pension Fund to augment the sustainability of Employees’ Pension Scheme, 1995, the Government has requested the Committee to consider the above issue for examination and recommendation.

3. Accordingly, the Committee is requested to consider the matter and make its recommendations.
**Item No.4:**  Important Statistics of EPS'95.

During the 25th meeting of PIC held on 21.08.2008, it was decided that the important statistics pertaining to Employees' Pension Scheme 1995 would be furnished for the information of the members.

Accordingly, the important statistics in respect of EPS'95 for the period 2007-08 are as follows*:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amt. of Pension Disbursed (Rs. in Crores)</th>
<th>No. of Withdrawal-benefit settled (No. in lakhs)</th>
<th>Amt. of Withdrawal Benefit paid (Rs. in Crores)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>2727.97</td>
<td>21.81</td>
<td>1502.90</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Contribution Received</th>
<th>Corpus (cumulative)</th>
<th>Out of the Corpus, amount lying in Public A/c (cumulative)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Govt. Share</td>
<td>Employer Share</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(All amount in Rupees Crores)</td>
<td>(cumulative)</td>
<td></td>
</tr>
<tr>
<td>2007-08</td>
<td>990.00</td>
<td>8022.46</td>
<td>94101.42</td>
</tr>
</tbody>
</table>

**Classification of Pensioners**

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Pensioners (including EFPS'71 Pensioners; (cumulative)</th>
<th>Member</th>
<th>Widow/Spouse</th>
<th>Children</th>
<th>Orphan</th>
<th>Nominee</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>2952622 (cumulative)</td>
<td>1805012</td>
<td>597940</td>
<td>520625</td>
<td>13226</td>
<td>15819</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Pension Fund Members (in lakhs)</th>
<th>Amount of Pension disbursed (in Rs crores)</th>
<th>Scheme Certificates issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>405.85</td>
<td>2727.97</td>
<td>125012</td>
</tr>
</tbody>
</table>

*All figures un-audited and provisional
No. Coord. 2(27)05/Amend/Scheme(Part) Dated: 1.6 Oct 2008

To

All Members,
Central Board of Trustees,
Employees' Provident Fund Organisation,
New Delhi

Subject: Amendments in the three Schemes framed under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952

Sir,

A copy each of the following Gazette Notifications published in the Gazette of India, Extraordinary, Part II- Section 3 - Sub Section (i), dated September 26, 2008 regarding amendments in the three schemes framed under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 are enclosed:

(i) GSR 688(E), dated the 26th September, 2008
(ii) GSR 689(E), dated the 26th September, 2008
(iii) GSR 690(E), dated the 26th September, 2008

2. It comes into force on the date of its publication in the Official Gazette.

Yours faithfully,

Enclosures: As above

(P. SUDHAKAR BABU)
Addl. Central P.F. Commissioner (Compliance)
Copy to:

1. FA&CAO & All Zonal Audit Offices
2. CVO and All Zonal Vigilance Directorates
3. All Addl. CPFCs (HO/Zones)
4. NATRSS & All Zonal Training Institutes
5. RPFC, NDC
6. All RPFCs in charge of the Regions/SROs
7. All RPFCs of the Head Office
8. All APFCs of the Head Office
9. All Sections Officers in the Head Office
10. All EOs in the Head Office
11. Secretary General, EPF Officers Association, Head Office
12. Secretary General, EPF Staff Federation
13. General Secretary, EPF Staff Union, Head Office
14. Coal Mines P.F. Commissioner, Dhanbad
15. PS to CPFC
16. General File
भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खंड 3—उप-खंड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 527]
No. 527]
NEW DELHI, FRIDAY, SEPTEMBER 26, 2008/ASVINA 4, 1930

भ्रम और रोजगार मंत्रालय

अधिसूचना

यह दिल्ली, 26 सितंबर, 2008, साक्षर कार्यक्रम विभाग के द्वारा प्रकाशित किया गया

PART II—Section 3—Sub-section (i)

INFORMATION

PUBLISHED BY AUTHORITY

सं. 527]
No. 527]
NEW DELHI, FRIDAY, SEPTEMBER 26, 2008/ASVINA 4, 1930

भ्रम और रोजगार मंत्रालय

अधिसूचना

यह दिल्ली, 26 सितंबर, 2008, साक्षर कार्यक्रम विभाग के द्वारा प्रकाशित किया गया

PART II—Section 3—Sub-section (i)

INFORMATION

PUBLISHED BY AUTHORITY

सं. 527]
No. 527]
NEW DELHI, FRIDAY, SEPTEMBER 26, 2008/ASVINA 4, 1930

भ्रम और रोजगार मंत्रालय

अधिसूचना

यह दिल्ली, 26 सितंबर, 2008, साक्षर कार्यक्रम विभाग के द्वारा प्रकाशित किया गया

PART II—Section 3—Sub-section (i)

INFORMATION

PUBLISHED BY AUTHORITY
Ministry of Labour and Employment

Notification

New Delhi, the 26th September, 2008

G.S.R. 688(E).—In exercise of the powers conferred by Section 6A read with sub-section (1) of Section 7 and Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Pension Scheme, 1995, namely:

1. (1) This Scheme may be called the Employees' Pension (Second Amendment) Scheme, 2008.

2. It shall come into force on the date of its publication in the Official Gazette.

In the Employees' Pension Scheme, 1995,—

(i) for sub-paragraph (1) of paragraph 5, the following sub-paragraph shall be substituted, namely:

“(1) Where a employer makes default in the payment of any contribution to the Employees' Pension Fund, or in the payment of any charges payable under any other provisions of the Act or the Scheme, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government by notification in the Official Gazette in this behalf, may recover from the employer by way of penalty, damages at the rates given in the table below:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Period of default</th>
<th>Rates of damages (percentage of arrears per annum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>Less than 2 months</td>
<td>Five</td>
</tr>
<tr>
<td>(b)</td>
<td>Two months and above but less than four months</td>
<td>Ten</td>
</tr>
<tr>
<td>(c)</td>
<td>Four months and above but less than six months</td>
<td>Fifteen</td>
</tr>
<tr>
<td>(d)</td>
<td>Six months and above</td>
<td>Twentyfive</td>
</tr>
</tbody>
</table>

(ii) in sub-paragraph (7) of paragraph 12, for the words "three per cent", the words "four per cent" shall be substituted;

(iii) paragraph 12A and paragraph 13 shall be deleted.

[F. No. S-65015/01/08/SS-II]


Note:—The Employees' Pension Scheme, 1995 was published in the Gazette of India, Part II, Section 3, Sub-section (1) vide number G.S.R., 748(E), dated 16th November, 1995 and the Scheme was last amended vide number G.S.R. 438(E), dated the 9th June, 2008.
NOTIFICATION

New Delhi, the 26th September, 2008

G.S.R. 689(E).—In exercise of the powers conferred by Section 5 read with sub-section (1) of Section 7 and Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Provident Funds Scheme, 1952, namely:

1. (1) This Scheme may be called the Employees' Provident Funds (Second Amendment) Scheme, 2008.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Employees' Provident Funds Scheme, 1952, for sub-paragraph (1) of paragraph 32A, the following sub-paragraph shall be substituted, namely:

"(1) Where an employer makes default in the payment of any contribution to the Fund, or in the transfer of accumulations required to be transferred by him under sub-section (2) of Section 15 or sub-section (15) of Section 17 of the Act or in the payment of any charges payable under any other provisions of the Act or the Scheme or under any of the conditions specified under Section 17 of the Act, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government by notification in the Official Gazette in this behalf, may recover from the employer by way of penalty, damages at the rates given in the table below:


<table>
<thead>
<tr>
<th>S.No.</th>
<th>Period of default</th>
<th>Rates of damages (percentage of arrears per annum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td></td>
<td>(2)</td>
</tr>
<tr>
<td>(a)</td>
<td>Less than 2 months</td>
<td>Five</td>
</tr>
<tr>
<td>(b)</td>
<td>Two months and above but less than four months</td>
<td>Ten</td>
</tr>
<tr>
<td>(c)</td>
<td>Four months and above but less than six months</td>
<td>Fifteen</td>
</tr>
<tr>
<td>(d)</td>
<td>Six months and above</td>
<td>Twenty Five.&quot;</td>
</tr>
</tbody>
</table>

[F. No. S-35012/01/07/SS-II]

S.K. DEV VERMAN, Jt. Secy.

Noté.—The Employees' Provident Funds Scheme, 1952 was published in the Gazette of India, Part II, Section 3, Sub-section (1) vide number S.R.O. 1506 dated 2nd September, 1952 and the Scheme was last amended vide number G.S.R. 253(E), dated the 31st March, 2008.

[FA. No. P-35012/12/07/FASS-11]
NOTIFICATION

New Delhi, the 26th September, 2008

G.S.R. 690(E).—In exercise of the powers conferred by Section 6C, read with sub-section (1) of Section 7 and Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Deposit Link Insurance, 1976, namely:

1. (1) This Scheme may be called the Employees' Deposit Link Insurance (Amendment) Scheme, 2008.

   (2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Employees' Deposit Link Insurance Scheme, 1976, for sub-paragraph (1) of paragraph 8A, the following sub-paragraph shall be substituted, namely:

   "(1) Where an employer makes default in the payment of any contribution to the Insurance Fund, or in the payment of any charges payable under any other provisions of the Act or the Scheme, the Central Provident Fund Commissioner or such officer as may be authorised by the Central Government by notification in the Official Gazette in this behalf, may recover from the employer by way of penalty, damages at the rates given in the table below:

   
<table>
<thead>
<tr>
<th>S.No.</th>
<th>Period of default</th>
<th>Rates of damages (percentage of arrears per annum)</th>
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<tr>
<td>(1)</td>
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<tr>
<td>(a)</td>
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<td>Fifteen</td>
</tr>
<tr>
<td>(d)</td>
<td>Six months and above</td>
<td>Twenty Five</td>
</tr>
</tbody>
</table>

[F.No. S-35012/01/07/SS-II]

S.K. DEV VERMAN, Jt. Secy.

Note:—The Employees' Deposit Link Insurance Scheme, 1976 was published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 488(E), dated 28th July, 1976 and the Scheme was last amended vide number G.S.R. 398(E), dated the 30th May, 2001.
TO

All Members,
Employers’ Associations.

Subject: Forwarding of Minutes of the Meeting held on 16.11.2006 under the Chairmanship of Chairman, CBT, EPF with the delegates of Employers’ Associations regarding.

Sir,

Please find enclosed herewith the Minutes of the Meeting held on 16.11.2006 under the Chairmanship of Chairman, CBT, EPF with the delegates of Employers’ Associations for information and perusal please.

Yours faithfully,

Encl.: As above.

Copy to:-

1. PS to Hon’ble Minister (L&E) & Chairman, CBT, EPF
2. PS to Secretary (L&E)
3. PS to Special Secretary (L&E)
4. Joint Secretary (SS), MoL&E
5. Director (SS), MoL&E
6. PS to CPFC
7. FA & CAO
8. All Addl. CPFCs (Hqrs.)
9. RPFC (Conference)

Addl. Central Provident Fund Commissioner (Pension)
Minutes of the Meeting with delegates of Employers’ Associations.

Date : 16.11.2006
Time : 4.00 P.M.
Venue : Mini Committee Room,
Shram Shakti Bhawan,
Ministry of Labour, New Delhi.

The Meeting of Employers’ Association was held on 16.11.2006 under the chairmanship of the Chairman, CBT, EPF and Hon’ble Minister of State (IC), Labour & Employment.

The following officers and delegates participated in the meeting:

1. Shri J.P. Singh Special Secretary (Labour & Employment)
2. Ms. Gurjot Kaur Joint Secretary (Labour & Employment)
3. Shri A. Viswanathan C.P.F.C.
4. Shri Rajesh Bansal Addl. CPFC (Pension)

Employers’ Associations delegates

1. Shri B.P. Pant FICCI
2. Shri Amit Kumar Sen AIMO
3. Shri V. Virmani ASSOCHAM
4. Shri Sharad Patil EFI

At the outset, the Hon’ble Chairman welcomed all representatives of Employers’ Associations and shared the discussions held with the Central Trade Unions in the morning.

The Special Secretary explained in brief the points raised by the Actuary. He showed his concern about the increasing deficit in the pension fund. He asked the members to deliberate upon the various issues and come up with their considered suggestions which will be further considered in C.B.T.. He then told CPFC to initiate the discussion.

The CPFC explained to the members that EPS’95 is a defined contribution as well as defined benefit scheme where contribution at the rate of 8.33% came from the employers’ share of P.F. contribution. Same fund got invested in various types of security as per the pattern of investment prescribed by the Govt. of India. He also spoke of the provision of the Scheme for carrying out of annual valuation of the fund by a qualified valuer appointed by the Govt. He informed all the participants that so far eight valuations had already been done, the last four showing increasing trend of deficit culminating in a deficit of Rs. 22,021 crores in the 8th valuation. He brought to the notice of all the following corrective measures as suggested by the Actuaries.

- To increase the rate of contribution to the pension fund from 8.33% to 10.33%.
- To revise Table-B & Table-D in accordance with the rate of return from the investment of pension fund.
-2-

- Age of vesting pension may be increased from 58 to 60 years.
- To increase the reduction rate from 3% to 5% in early pension cases.

He also emphasized on linking the pensionable salary to the average salary over the entire membership and corresponding wage ceiling prescribed from time to time. He told the participants that the fund did not cause direct cash shortage immediately but if corrective measures are not taken, over a period of 30 to 40 years the outgo from the fund would exceed the inflow in the fund. He informed the members that the Central Trade Unions were of the in view that raising pension vesting age from 58 to 60 years along with raise in retirement age and increase the rate of contribution under EPF Scheme from 12 to 15% diverting 10.33% of employers’ share to the pension fund with a request to the Government to contribute to pension fund at enhanced rate.

The Special Secretary called upon the member to consider other suggestions also as one or two measures might not suffice to plug all the holes of pension fund.

Shri Vineet Virmani observed as follows:

- In the year 2002 the deficit all of sudden shoted to the tune of Rs. 17,000 crores because of the Govt.'s decision to increase the wage ceiling without any remedial measures.
- The Pension Schemes are undergoing great changes all over the world.
- The pension funds should be invested prudently to fetch the maximum return on investment.

He also agreed that all suggestions should be considered, as piecemeal measures could not bring the desired effect.

Shri B.P. Pant said that there had been continuous deficit in the pension fund for last four valuation years which triggered a panic button. He, however, desired that the suggestions as tabled may be followed by working out in terms of monitory values which would facilitate the participants to understand the issue and give their opinion easily. He said that the Govt. had been hesitating in investing pension money in the market when the market attracted pension funds from all over the world. If further said that he was afraid that the members with less period of service were getting more pension in EPS'95. He stressed upon discouraging early withdrawals from pension funds. Shri Pant wanted to know from CPFC about the New Pension Scheme (NPS). The CPFC explained the same to the satisfaction of Shri Pant. Responding to a query about the enhanced rate of contribution by the employer as well as employees Shri Pant said that the employees in unorganized sector and small establishments were not even ready to pay contribution on the existing contribution rate. They would be reluctant to pay contribution on enhanced rate.
Shri Amit Kumar sen desired that the quantum of pension should be linked with the number of years in service. He said that the suggestion of enhancing the age of vesting of pension from 58 to 60 years would not be a desirable option. Commenting upon the observations the Hon’ble Chairman also agreed that there were some lacunae in the scheme about the method of calculation of pension. He suggested that the basic data for 5 or 10 years may be analyzed by a group of competent and qualified officers to know the exact rate of outflow from and inflow in the fund. Such officers should be expert in accounts and banking instead of being expert in Actuarial science.

Shri Sharad Patil made detail observations which are as follows:

- With some apprehension he shared his feelings that the EPS’95 did not receive the attention from EPFO, CBT and the Govt. to the extent which it deserved and required.
- The corrective measures should have been taken in the year when the deficit was detected.
- Multiple Fund Manager should be allowed to invest P.F. and Pension Fund of EPFO to allow competition resulting in maximum rate of return on investment.
- EPFO should have its own Actuarial Cell manned by the qualified officers. Till such qualified officers are not available the task may be outsourced to some external agency also.
- Data should be made available in respect of establishments exempted under EPS’95.
- Data about age of EPS members and their mortality rate may be checked for the correctness.
- In any other Pension Schemes earlier withdrawal and re-entry in the scheme is not allowed while it is permitted in EPS’95 which should not be.
- The reduction of pension at the rate of 3% presently as applicable in early pension cases should not be applied to disablement pension cases.
- The pensionable salary should be the average salary of the member during the last 36 months.

When he was asked about his opinion regarding enhancing rate of contribution from 12 to 15% he said that in case of employer as well as employee making contribution at the rate of 15% of wages, the pension scheme as well as P.F. Scheme should be merged with other welfare schemes like gratuity etc. However, as an alternative, he suggested that the entire contribution of employer should be diverted to the pension fund. Shri Patil also suggested that the entire pension scheme needed an overhaul.

The Hon’ble Chairman thanked Mr. Patil for his detailed and valuable suggestion. He also thanked other participants for their suggestions and cooperation.
To All Members,
Central Trade Unions.

Subject: Forwarding of Minutes of the Meeting held on 16.11.2006 under the Chairmanship of Chairman, CBT, EPF with the delegates of Central Trade Unions—regarding:

Sir,

Please find enclosed herewith the Minutes of the Meeting held on 16.11.2006 under the Chairmanship of Chairman, CBT, EPF with the delegates of Central Trade Unions for information and perusal please.

Yours faithfully,

(RAJESH BANSAL)
Addl. Central Provident Fund Commissioner (Pension)

Copy to:-

1. PS to Hon’ble Minister (L&E) & Chairman, CBT, EPF
2. PS to Secretary (L&E)
3. PS to Special Secretary (L&E)
4. Joint Secretary (SS), MoL&E
5. Director (SS), MoL&E
6. PS to CPFC
7. FA & CAO
8. All Addl. CPFCs (Hqrs.)
9. RPFC (Conference)

(RAJESH BANSAL)
Addl. Central Provident Fund Commissioner (Pension)
Minutes of the Meeting with delegates of Central Trade Unions.

Date : 16.11.2006
Time: 9.30 A.M.
Venue: Committee Room, Shram Shakti Bhawan, Ministry of Labour, New Delhi.

The Meeting of Central Trade Unions was held on 16.11.2006 under the chairmanship of the Chairman, CBT, EPF and Hon'ble Minister of State (IC), Labour & Employment.

The following officers and delegates participated in the meeting:

1. Shri J.P. Singh Special Secretary (Labour & Employment)
2. Ms. Gurjot Kaur Joint Secretary (Labour & Employment)
3. Shri A. Viswanathan C.P.F.C.
4. Shri Rajesh Bansal Addl. CPFC (Pension)

Central Trade Union delegates

1. Shri Gurudas Das Gupta AITUC
2. Shri D.L. Sachdev AITUC
3. Dr. M.K. Pandhe CTU
4. Shri Umraomal Purohit HMS
5. Shri A.D.Nagpal HMS
6. Dr. G.Sanjeeva Reddy INTUC
7. Shri Ashok Singh INTUC
8. Shri O.P. Verma NFITU
9. Shri Abani Roy UTUC
10. Shri Sankar Saha UTUC (LS)
11. Shri A. Sinha UTUC (LS)

After having welcomed all the participants, the CPFC explained in brief the agenda of the meeting and also explained the problem areas and suggested measures to make EPS'95 sustainable.

Mr. G. Sanjeeva Reddy brought to the notice of the Hon'ble Chairman that an assurance was given to Central Trade Unions at the time of inception of the Scheme that the quantum of pension would increase every year. But the same did not happen on the plea that there was a deficit in the fund. Shri Reddy wanted to know that who was responsible for the deficit. Responding to the query of Shri Reddy, the Hon'ble Chairman explained that the major reasons for deficit had been the raising of statutory limit from Rs. 5000 to Rs. 6500 and the increased longevity of pensioners.

Shri Shankar Saha stressed that the interest rate had fallen over the period and due to the globalization more people started exiting from the employment and hence from the fund. Because of less employment opportunity the sufficient fund was not coming to the pension fund. Shri Saha urged upon all participants to ensure the sustainability of the scheme at any cost. Shri Saha referred to the suggestion of the Actuary that the deficit could be filled if pension
contribution rate be increased to 11%. He suggested that this additional
cortribution might be contributed either from employer or the Government or
both. He also urged upon the Government to increase the interest rate on special
deposit scheme.

Shri A.D. Nagpal reminded the participants of suggestion of Central
Trade Unions in earlier meeting that Table -B and Table -D should be revised in
accordance with the prevailing interest regime. The pension scheme should
continue as defined benefit scheme. He stated that his organization agrees to the
suggestion given by Actuary as under:

- Increase the contribution rate from employer.
- Increase the age of vesting of pension from 58 to 60 years.
- Increase the reduction rate from 3% to 5% in case of early
  pension.
- Rationalization of withdrawal benefits.
- Revising Table-B and Table-D.

Shri Nagpal also stressed that the decision should not be delayed.

Shri Gurudas Das Gupta said making it very clear that he is not in
favour of employees making more contribution. The basic fallacy was with the
Government as it always paid less interest to the P.F. and EPS members. He also
conveyed that he may not agree to the proposal of raising superannuation age
from 58 to 60 if an employee retiring at the age of 58 years is allowed to draw
pension benefit not before the age of 60.

Shri Pandhe stated that the pension scheme was prepared by the
Actuary. So how can the benefits be generous and antagonistic to the health of
pension fund now. Shri Pandhe complained that the P.F. money had always been
a cheap source of fund for the Government and the Government did not consider
EPS’95 as a true Social Security Scheme. He said that the P.F. money being
workers’ fund should be managed and controlled by the workers and not the
Ministry of Finance. He attributed the chief reason of deficit to the Government
paying less interest on investment of pension fund. Shri Das Gupta intervened
and asked about the total corpus of EPS’95 which was furnished to CPFC. Shri
Pandhe stated his view that the reasons for deficit and corrective measures as
suggested in the papers laid on the table of all participants were not acceptable to
him. He responding to a specific query raised by the Hon’ble Chairman he made it
clear that the additional contribution should come from the Government and not
be loaded on the employees. He requested the Chairman to convince the
Government, considering our pathetic placement in human development index
report, to re-introduce the special deposit scheme, raise interest rate on it and to
raise its contribution rate.

Shri Purohit brought to the attention of all that why the Government
should pay the interest at the rate less than that prevailing in the market. He said
that the Government should not link the interest rate with the market rate because
in the past it always paid less interest rate than market rates. He urged the
Government not to forget that EPS’95 should be considered from the point of
Social Security and not from the angle of market forces.
Shri Reddy summed up his suggestions as follows:

- The vesting age of pension may be increased from 58 to 60, subject to a notification by the Government to increase the retirement age from 58 to 60 years.
- The increase in contribution rate of pension fund from 8.33% to 10.33% may be considered.
- The rate of contribution may be increased from existing 12% to 15% from employer as well as employees. Out of which 10.33% of employers' share may be diverted to the pension fund.
- Reduction in benefits cannot be agreed to.

Shri DasGupta informed that the followings are acceptable to all.

- The vesting age of pension be increased from 58 to 60 years but without application of reduction factor if the pension is claimed at the age of 58 years.
- To raise contribution rate from 12 to 15% (both shares).
- The Government contribution should also be enhanced.

The Hon'ble Chairman thanked to all the participants for their suggestions.
**ANNEXURE - IV**

List of Expectations/Suggestions received from Members of Central Board of Trustees, EPF

<table>
<thead>
<tr>
<th>S.No</th>
<th>Received from</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Sh. Parduman Singh, Member, CBT, EPF</td>
<td>• Regular increase in Pension.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The entire pension fund should remains with the Government under Special Deposit Scheme or any other Scheme and the Government should give administered ate of interest as is being given to depositors under Senior Citizen Scheme</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The administered ate of interest should be worked out by a Panel of Actuaries. It should enable an annual increase of at least 4 to 6 percent for pensioners under this Scheme.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• According to Section 5(3) of the of the Ordinance, the beneficiaries under the Family Pension Scheme which was to be merged in the new scheme, shall be entitled to the benefits from the new scheme which would not be less than the benefits under the Family Pension Scheme. Now, under the Family Pension Scheme the age of retirement was 60 years whereas in Section 3(c)(ii) of the Ordinance, the age of superannuation has been fixed at 58 years. Therefore, this section of the Ordinance be amended so that age of superannuation is fixed at 60 years.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The Central Government was bearing the entire cost of administration of the Family Pension Scheme which has now been withdrawn. The Government should bear the entire cost of administration of the new scheme. At least the amount it was paying earlier should be restored.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Pension should be linked with Price Index to save its real value as is the case of Government employees, Bank and Insurance employees.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The factor 1/70 be changed to 1/60, so that the pension amount paid to the pensioner is increased.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The pattern of investment of monies in the Pension Fund should be decided by the Central</td>
</tr>
<tr>
<td>S.No</td>
<td>Received from</td>
<td>Subject</td>
</tr>
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<td>------</td>
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<tr>
<td></td>
<td></td>
<td>Board of Trustees. Keeping in view the safety and liquidity of the funds, maximum returns should be ensured. The rate of interest should in no cases be less than 15%.</td>
</tr>
</tbody>
</table>
| 2.   | Shri Sharad S.Patil Secretary General Employers’ Federation of India | 1. The assumption on which the plan has been worked out is unrealistic and needs to be received. Salary growth of 10% and interest earnings of 12% have both proved to be unrealistic. Difference of 2% between salary growth and interest rate is also highly unrealistic and needs to be re-looked. 
2 Commutation of Pension: Since an employee on retirement is eligible to receive gratuity, provident fund and if available privilege leave encashment, there is no need to further provide commutation of pension. A basic change in the scheme to this effect is necessary. You may also note that the LIC with its vast experience on the subject provides for commutation of pension at the rate of Rs.70 for 1 as against Rs.100 for 1 under the EPS. The discounting of pension may have to be at a rate higher than 3% per annum for service short of retirement age. The normal retirement age is 60 and the pension should be started from the age of 60. Even if the retirement age of an employee were to be less than 60 considering that he is entitled to receive gratuity, provident fund and leave salary upon retirement the hardship to the employee on account of retirement age for pension purposes being raised to 60 will not result in a major hardship to the pensioner. 
3. The final salary type of pension such as the EPS results in lower paid employees subsidizing the pension of the higher paid employees and as such is not fair to the lower paid employees considering this aspect the scheme may have to rectify the anomaly. 
4. No withdrawal of pension be permitted till the employee attains the age of superannuation irrespective of his having discontinued contribution to the pension. The pension is essentially an old age benefit and except in the |
event of death or total permanent incapacitation does not qualify for any withdrawal.

5. Salary for the purpose of pension may have to be redefined to exclude PF contribution on leave salary. Liberalization of the definition in its present form would result in greater pension being paid to those who have accumulated leave v/s those who have not accumulated leave. Usual industrial experience is that lower paid salaried people accumulate less of leave as they have greater need to be in their native places in the absence of appropriate housing at the industrial location.

6. The pension is currently available to the nominee of a bachelor deceased member. Unless the nominee is a family member directly dependent on him the pension in such an event need not be paid.

7. The actuary’s statement to the Parliamentary Committee that EPFS is better than EPS for employees given a salary growth of 10% per year assumes an unrealistic growth across the board. At the lower levels the Pensionable salary does not normally grow at the rate of 10% per annum.

8. Contribution to family pension scheme was 3-1/2% v/s 9-1/2% under the EPF. Proportionate increase on transfer from FPS to EPS has not been made and this aspect also needs to be ratified.

9. EDLI scheme corpus would be substantial and beyond the need. This amount could also be considered for being transferred if required to the pension fund. Both the schemes could also be combined for this purpose.

<table>
<thead>
<tr>
<th>S.No</th>
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</tr>
</thead>
</table>
| 3.   | Shri Hasubhai Dave, Advocate, C.B.T Member | 1. Pension Scheme must be continued.  
2. If necessary, Amendment may be done.  
3. As per the discussing with Central Trade Unions previously, we have already given the suggestions for the pension scheme, it must be carried out. |
<table>
<thead>
<tr>
<th>S.No</th>
<th>Subject</th>
<th>Received from</th>
<th>Forwarded By</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Fixing of minimum pension as Rs.5000/-</td>
<td>EPF Pensioners Welfare Association, Andhra Pradesh</td>
<td>MOLE</td>
</tr>
<tr>
<td>2.</td>
<td>Sanction of DA linked with CPI Additional benefit of Rs.50/- per year of past service Restoration of full pension after the lapse of commutation period Minimum pension as Rs.2500/- Enhancing the rate of government’s contribution Sanction of medical allowance</td>
<td>All India Employees Provident Fund Pensioner’s Association,</td>
<td>Shri P.C.Thomas, Shri K.Chandran Pallai, MP</td>
</tr>
<tr>
<td>3.</td>
<td>Equivalent pension as Central Government Employees Pay additional reliefs</td>
<td>Industrial Workers Pensioner’s Association, Chennai</td>
<td>MOLE</td>
</tr>
<tr>
<td>4.</td>
<td>Enhancement of pension to sustain the livelihood</td>
<td>Indian National Chemical Worker’s Federation</td>
<td>PMO</td>
</tr>
<tr>
<td>5.</td>
<td>Restoration of original pension after the lapse of 100 months in the case of exercise of option for commutation.</td>
<td>Tamil Nadu transport department and corporation retired employees Association</td>
<td>PMO</td>
</tr>
<tr>
<td>6.</td>
<td>Payment of additional reliefs Increase in pension as that of Central Govt. employees</td>
<td>Shri K.C. Raikwar, Advocate Ratlam, MP</td>
<td>MOLE</td>
</tr>
<tr>
<td>7.</td>
<td>Revision of table C Periodical increase in pension as done in the case of widow pensioners of Central Government employees</td>
<td>Shri S.D.Kalia, Social Activist, Chandigarh</td>
<td>PMO &amp; MOLE</td>
</tr>
<tr>
<td>8.</td>
<td>Increasing widow pension at par with state Govt. and Central Government employees</td>
<td>Shri S.K.Rathore, Kanpur, UP</td>
<td>PMO &amp; Ministry of Home Affair/MOLE</td>
</tr>
<tr>
<td>9.</td>
<td>Increase in pension</td>
<td>Shri Manoj Mohan Sharma,</td>
<td>PMO</td>
</tr>
<tr>
<td>S.No</td>
<td>Subject</td>
<td>Received from</td>
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</tr>
<tr>
<td>10.</td>
<td>Grant of dearness reliefs</td>
<td>West Bengal</td>
<td>PMO and MOLE</td>
</tr>
<tr>
<td>11.</td>
<td>Minimum pension shall be given Rs.3000/- p.m. without maximum limit. Yearly increment according to price hike</td>
<td>Sh.M.Alagarsamy, Secretary, Pensioners Welfare Association, Madurai</td>
<td>PMO</td>
</tr>
<tr>
<td>12.</td>
<td>Increase in pension</td>
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<td>16.</td>
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<td>Shri P.K.Narayanan, Secretary, CPI(M) Pappinisseri Kannur, Kerala</td>
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<td>17.</td>
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<td>18.</td>
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<td>20.</td>
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<td>Sh.V.Balakrishnan, Pullengode.</td>
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<td>Revise the EPS-1995</td>
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<td>Revise the pension amount with appropriate DA</td>
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<td>Provide free subsidized medical insurance</td>
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<td>The reduced PF accumulation due to transfer of 50% of contribution in the pension scheme</td>
<td>Shri K.C. Sahoo, Supervisor, OFDC Ltd., Orissa</td>
<td>PMO</td>
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<td></td>
<td>Revision of pension</td>
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<td></td>
<td>One legislature in India gets full pension even he becomes a legislature for a single day in the Parliament/Assembly on the contrary a worker after 30 to 33 years service do not get a hand to mouth living after retirement</td>
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<td>26.</td>
<td>Increase in minimum pension at par with government employees</td>
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<td>36.</td>
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<td>• Grant of additional relief&lt;br&gt;• Grant additional benefit at a minimum of Rs. 50/- per year for the past service from 1971 to 1995&lt;br&gt;• Sanction Medical allowance to pensioners&lt;br&gt;• Minimum pension should be fixed as Rs. 2500/-.&lt;br&gt;• Make provision to pay return of capital to nominee&lt;br&gt;• Enhance the rate of Government Contribution&lt;br&gt;• Rectify the anomalies under EPS, 95</td>
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ORDER

The Bihar State Hydroelectric Power Corporation Ltd. is a company registered in the year 1982 under the Companies Act 1956 of the State of Bihar. The Corporation had filed a Civil Writ Petition C.W.J.C. No.10285 of 2006 in the Hon'ble Patna High court seeking directions to raise the retirement age from 58 years to 60 years in the Employees' Pension Scheme, 1995.

2. The Corporation in its affidavit had stated that the employees of the Corporation are contributing towards the Employees Provident Funds according to Service Rule 74 of the Corporation under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and Employees' Pension Scheme 1995. Accounts of the Corporation are being maintained by the Regional Employees Provident Fund Office Patna having EPF A/C No.1, EPS A/c No.10 and DL9, A/c No.21. The retirement age of the employees of the Corporation was enhanced from 58 years to 60 years as per service rule of the Corporation which was duly cleared by the Indian Audit and Accounts Department w.e.f. 01-01-2004. The Corporation has stated that they informed the Regional Office, Patna accordingly and requested on 26.04.2005 for suitable change in the accounts up to the age of 60 years.

3. In addition to this the Corporation had submitted that Form 19 which is meant for the final payment of Employees Provident Fund balances of an
employee on retirement were being forwarded regularly to the Regional Provident Fund Commissioner Patna well in advance to facilitate making the payment of Provident Fund balance to the employees of the corporation on the day he retired and it was a regular practice which was stopped by the Regional Provident Fund Commissioner, Patna.

4. Further the Corporation has stated that on 27.06.2006 almost after one year, the Regional Provident Fund Commissioner Patna informed that the proposal as well as Form 19 could not be accepted as per paragraph 6A of Employees' Pension Scheme 95 (Explanation) which inter-alia stated that "An employee shall cease to be the member of Pension fund from the date of attaining 58 years of age or from the date of vesting admissible benefits under the scheme whichever is earlier". The Regional Provident Fund Commissioner Patna informed the Corporation that the matter should be referred to the Central Government if there was any doubt for interpretation of the provisions of the Employees Pension Scheme 95.

5. The Hon'ble High Court of Patna has passed an order dated 17.7.2007 in the CWJC No.10285 of 2006 with the following directions:

"The only surviving grievance in this writ application is with regard to the grant of benefit by permitting employees of the Corporation to continue with their accounts and also to accept contributions from them under the Employees' Provident Fund Scheme till they attain the age of 60 years in place of 58 years in view of the enhancement of the age of retirement."
The legislation in question falling for consideration is the Employees' Pension Scheme, 1995. Section 6-A of the scheme provides that the benefits thereunder shall be available to the member till he attains the age of 58 years or he avails the retirement benefits to which he is entitled under the provisions of para-14 of the scheme or dies or the pension is vested in him in para-12 of the scheme whichever is earlier.

This pension scheme has been framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

In the circumstances the only appropriate order therefore to be passed in the present case at this stage is to direct the respondent no.2 to forward the representation of the petitioner as appended at Annexure-1 reiterated in Annexure-2 to respondent No.1 to take an appropriate decision in the matter.

The writ application is disposed off with the aforesaid direction. Let it be so done within a period of three months from the date of receipt/production of a copy of this order.*

6. The orders of the Hon'ble High Court of Patna along with a copy of the Contempt Petition have been received from the Employees' Provident Funds Organisation on 06.08.2008. At Annexure 8 to the Contempt Petition the Corporation has furnished a copy of letter dated 15/2/08 addressed to the Secretary, Ministry of Labour & Employment. This letter appears to have not been received by this Ministry as per records in the Central Receipt Branch of the Ministry as well as in the concerned Social Security Division of the Ministry.
7. Annexure-I in the abovementioned order refers to letter No.780 dated 26.4.2006 from the Managing Director, Bihar State Hydroelectric Power Corporation Ltd. to the RPFC, Bihar. Annexure-II in the abovementioned order refers to letter No.1299 dated 13.4.2006 from the Managing Director, Bihar State Hydroelectric Power Corporation Ltd. to CPFC.

8. The issues raised in the letters of Bihar State Hydroelectric Power Corporation Ltd., No.780 dated 26.4.2005, No.1299 dated 13.4.2006 and the Writ Petition have been examined in the Ministry. The contents of letter dated 15.2.2008 of the Corporation were also taken into account.

9. Section 6A of the Employees' Pension Scheme, 1995 as amended from time to time states as under:

"6A. Retention of membership-A member of the Employees' Pension Fund shall continue to be such member till he attains the age of 58 years or he avails the withdrawal benefit to which he is entitled under para 14 of the Scheme, or dies, or the pension is vested in him in terms of para 12 of the Scheme, whichever is earlier."

10. Once a member attains 58 years of age, the contribution being remitted into the Employees' Pension Fund gets diverted into the Provident Fund thereafter. As such, there is no loss of opportunity for the member of the Employees' Pension Fund upon his ceasing to be such member when he attains the age of 58. The Employees' Pension Scheme, 1995 is a universal scheme applicable to all members. It can not be designed to meet the requirement of a specific establishment or an individual. Any change in design
has large implications on benefits, funding, assets and liability management etc. These aspects are to be evaluated by undertaking appropriate actuarial studies as provided for in the Scheme.

11. Raising of the maximum age of membership of employees' Pension Fund from 58 to 60 is one of the measures suggested by the valuer of the Employees' Pension Fund to augment the sustainability of the Employees' Pension Scheme, 1995. Accordingly, as suggested by the Central Board of Trustees, Employees' Provident Fund, a Committee for Comprehensive Review of Employees' Pension Fund, 1995 has been constituted by the Central Government in March 2008. This Committee is already examining various issues relating to the Employees' Pension Scheme, 1995 including all measures and suggestions received from various quarters and also the suggestion of raising the age of vesting. After studying the recommendations of the Committee, the Central Government will take appropriate action to modify/amend the Employees' Pension Scheme, 1995 as may be required.

The request of the petitioner is disposed off accordingly.

[Sudha Pillai]
Secretary to the Government of India

To

The Managing Director,
Bihar State Hydroelectric Power Corporation Limited,
Sone Bhawan, Veerchand Patel Path, Patna

Copy to: The CPFC, Employees' Provident Funds Organisation, Bhavishya
Nidhi Bhavan, 14, Bhikaiji Cama Place, New Delhi. He is requested that a copy of this order may be placed before the Committee for Comprehensive Review of EPS, 1995 for their recommendations on the same.